

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

PHL VARIABLE INSURANCE COMPANY,

Plaintiff,

v.

FAYE KEITH JOLLY, et al.,

Defendants.

CIVIL ACTION NO.

1:08-cv-3220-JEC

ORDER

Judge Tidwell, to whom this case was originally assigned, granted summary judgment to the defendant in April of this year. Thereafter, the plaintiff filed a notice of appeal with the Eleventh Circuit. In addition, the defendant filed a Motion for Attorney's Fees [130], as well as a Bill of Costs [134]. The plaintiff has filed a Motion for Review of Taxation of Costs [137], as well as a response to defendant's motion for attorney's fees, in which plaintiff indicates that it will file a substantive response to this motion when the appeal is resolved by the Eleventh Circuit.

The case has been reassigned to the undersigned and is before the Court on defendant's Motion for Attorney's Fees [130] and plaintiff's Motion for Review of Taxation of Costs [137]. The Court agrees with plaintiff that to conserve the resources of it and the

parties, these matters should not be resolved until it is determined whether the previous ruling by Judge Tidwell will be affirmed.

Accordingly, the Court **DENIES without prejudice** defendant's Motion for Attorney's Fees [130] and plaintiff's Motion for Review of Taxation of Costs [137]. The movants may refile their motions within 30 days of the issuance of the mandate by the Circuit affirming the grant of summary judgment. Should the Circuit remand and/or reverse the case, the parties should indicate to the Court within 30 days of the issuance of the mandate whether they wish to pursue these motions at that time.

SO ORDERED, this 1st day of November, 2011.

/s/ Julie E. Carnes

JULIE E. CARNES

CHIEF UNITED STATES DISTRICT JUDGE